



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2020-0730; EPA-R05-OAR-2020-0731; FRL-9746-02-R5]

**Air Plan Approval; Michigan; Base Year Emissions Inventory and
Emissions Statement Rule for the 2015 Ozone Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving, under the Clean Air Act (CAA), a request submitted by the Michigan Department of Environment, Great Lakes, and Energy (EGLE) on December 18, 2020, to revise the Michigan State Implementation Plan (SIP). EGLE's submittal addresses the emissions inventory and statement requirements for the Allegan County, Berrien County, Detroit (Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties) and Muskegon County nonattainment areas under the 2015 ozone National Ambient Air Quality Standard (NAAQS or standard). The CAA requires states to develop and submit, as SIP revisions, emission inventories for all ozone nonattainment areas. In this action, EPA is approving EGLE's emissions inventories for the Allegan County, Berrien County, and Muskegon County nonattainment areas under the 2015 ozone NAAQS and the removal of the repealed Act 348, Section 14a. EPA approved the portions of EGLE's December 18, 2020, submittal pertaining to the certification of EGLE's stationary annual emissions statement regulation and emissions

inventories for the Detroit nonattainment area under the 2015 ozone NAAQS in a separate action on July 6, 2022.

DATES: This direct final rule is effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, unless EPA receives adverse comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the *Federal Register* informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2020-0730 (regarding emissions statement) or EPA-R05-OAR-2020-0731 (regarding emissions inventory) at <https://www.regulations.gov> or via email to blakley.pamela@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the

web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Emily Crispell, Environmental Scientist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8512, crispell.emily@epa.gov. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. The 2015 Ozone NAAQS Emissions Inventory and Emissions Statement Rule Requirements.

On December 28, 2015, EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm) (October 26, 2015, 80 FR 65292). The Allegan County (partial county), Berrien County, and Muskegon County (partial county) nonattainment areas were designated as marginal nonattainment areas for the 2015 ozone NAAQS (June 4, 2018, 83 FR 25776).

A. Emissions Inventories

CAA sections 172(c)(3) and 182(a)(1), 42 U.S.C. 7502(c)(3)

and 7511a(a)(1), require states to develop and submit, as SIP revisions, emission inventories for all areas designated as nonattainment for any NAAQS, including the ozone NAAQS. An emissions inventory for ozone is an estimation of actual emissions of air pollutants that contribute to the formation of ozone in an area. Ozone is a gas that is formed by the reaction of volatile organic compounds (VOC) and oxides of nitrogen (NO_x) in the atmosphere in the presence of sunlight (VOC and NO_x are referred to as ozone precursors). Therefore, an emissions inventory for ozone focuses on the emissions of VOC and NO_x . VOC is emitted by many types of pollution sources including power plants, industrial sources, on-road and off-road mobile sources, smaller stationary sources (collectively referred to as area sources), and biogenic sources. NO_x is primarily emitted by combustion sources, both stationary and mobile.

Emissions inventories provide emissions data for a variety of air quality planning tasks including:

- establishing baseline emissions levels (anthropogenic [manmade] emissions associated with ozone standard violations),
- calculating emission reduction targets needed to attain the NAAQS and to achieve reasonable further progress (RFP) toward attainment of the ozone standard,
- determining emissions inputs for ozone air quality modeling analyses, and
- tracking emissions over time to determine progress toward achieving air quality and emissions reduction goals.

As stated above, the CAA requires the states to submit emission inventories for areas designated as nonattainment for ozone. For the 2015 ozone NAAQS, EPA specifies that states submit ozone season day emissions estimates for an inventory calendar year to be consistent with the baseline year for RFP plan as required by 40 CFR 51.1310(b). For the RFP baseline year for the 2015 ozone NAAQS under 40 CFR 51.1310(b), states may use a calendar year for the most recently available complete triennial (3-year cycle) emissions inventory (40 CFR 51, subpart A) preceding the year of the area's effective date of designation as a nonattainment area (December 6, 2018, 83 FR 62998).¹ States are required to submit estimates of VOC and NO_x emissions for four general classes of anthropogenic sources: stationary point sources; area sources; on-road mobile sources; and off-road mobile sources.

B. Emissions Statement Rules

Section 182(a)(3)(B) of the CAA requires states with ozone nonattainment areas to submit revisions to their SIP to require the owner or operator of each major stationary source of NO_x or VOC to provide the state with an annual statement documenting the actual emissions of NO_x and VOC from their source. Under section 182(a)(3)(B)(ii), a state may waive the emissions statement requirement for any class or category of stationary sources which emits less than 25 tons per year of VOC or NO_x if

¹ The RFP requirements specified in CAA section 182(b)(1) shall apply to all area's designated nonattainment for ozone classified Moderate or higher.

the state, in its base year emissions inventory, provides an inventory of emissions from such class or category of sources. States and EPA have generally interpreted this waiver provision to apply to sources (without specification of a specific source class or source category) emitting less than 25 tons per year of VOC or NO_x.

Many states have adopted these emissions statement rules for a prior ozone NAAQS that covers all the state's nonattainment areas and relevant classes and categories of sources. For these states, EPA is accepting certifications that their previously adopted emissions statement rules remain in place and are adequate to meet the emissions statement rule requirement under the 2015 ozone standard (December 6, 2018, 83 FR 62998).

II. Michigan's Emissions Inventory.

On December 18, 2020, EGLE submitted a request to revise the Michigan SIP to address the emissions inventory requirement of CAA section 182(a)(1). EGLE provided documentation of a 2017 NO_x and VOC base year emissions inventory to meet requirements for the Allegan County, Berrien County, Detroit and Muskegon County nonattainment areas. EPA approved emissions inventories for the Detroit nonattainment area under the 2015 ozone NAAQS in a separate action on July 6, 2022 (87 FR 40097). EGLE selected 2017 as the base year because this was the most recent comprehensive, accurate, and quality assured (QA) triennial emissions inventory in the National Emissions Inventory (NEI)

database, available at the time the state began preparing the emissions inventory submittal for the Allegan County, Berrien County, and Muskegon County areas and is consistent with baseline year for the RFP plan as required by 40 CFR §51.1310(b). The baseline year for RFP would be the calendar year for the most recently available triennial emissions inventory at the time ROP/RFP plans are developed (e.g., 2017 for initial designations effective in 2018) (83 FR 62998). At the time that EGLE prepared its inventory of 2017 emissions to address the requirements of section 182(a)(1), several improvements in data sources were not yet available. Specifically, EGLE relied upon a version of the 2017 NEI that did not include a revised point source inventory to correct airport emissions. Additionally, EGLE relied upon the 2016v1 modeling platform (which did not yet include improvements from the 2016v2 modeling platform) including updated information from the 2017 NEI, MOVES3, and revised inventory methodologies. EPA is not evaluating Michigan's 2017 emissions inventory against platforms or data sources that were not available at the time of submission. Table 1 shows the Allegan County, Berrien County, and Muskegon County areas' 2017 NO_x emissions in tons per ozone season day.² Table 2 shows the Allegan County, Berrien County, and Muskegon County areas' 2017 VOC emissions in tons per ozone season day.

TABLE 1 – 2017 Ozone Season Day NO_x Emissions (Tons/day)

County/NAA	Event	Biogenics	Area	Non-Road	On-road	Point	Total NO _x
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² The ozone season is the portion of the year in which high ozone concentrations may be expected in a given area.

Allegan	0.02	0.96	0.73	0.83	2.83	1.76	7.13
Berrien	0.02	1.42	1.11	1.35	6.70	2.09	12.69
Muskegon	0.02	0.49	1.01	0.79	2.91	0.19	5.41

TABLE 2 – 2017 Ozone Season Day VOC Emissions (Tons/day)

County/NAA	Event	Biogenics	Area	Non-Road	On-road	Point	Total VOC
Allegan	0.33	18.12	3.72	0.90	1.50	0.60	25.17
Berrien	0.41	19.69	6.47	2.03	3.49	0.95	33.04
Muskegon	0.30	19.97	3.79	1.40	2.04	0.49	27.99

EGLE estimated NO_x and VOC emissions for all source categories in the Allegan County, Berrien County, and Muskegon County ozone nonattainment areas. Emissions for these counties were totaled by source category for each ozone nonattainment area.

To develop emissions inventories for the year 2017, Michigan began with annual emissions data contained in the 2017 NEI for the point, nonpoint, on-road, nonroad, biogenic, and event categories. Ozone season day emissions were calculated by determining the representative typical ozone season month during the May 1-September 30 ozone season period by defining all days with ambient air monitor values at or above 70 parts per billion as "typical ozone season" days. EGLE then assessed which months contained the most typical ozone season days or the days with the highest measured values or greatest impact on the design values. Using this methodology, EGLE selected July as the representative typical ozone season month. To convert annual emissions data to ozone season day values, EGLE extracted data from EPA's 2016v1 modeling platform and calculated a conversion factor for the point, nonpoint, on-road, nonroad, and biogenic data categories. EGLE determined the event category emissions

were too low and too variable from year to year to benefit from applying a conversion factor. For partial county nonattainment areas, a scaling factor was also applied before obtaining the emissions. EGLE also analyzed the impact of weekend day emissions on monitored design values. EGLE determined that weekend day emissions have a large impact on individual monitor design values and included weekend days in the calculation of typical ozone season day emission values.

For point sources, EGLE calculates and stores emissions data annually in the state's air emissions inventory database. Under the authority of Michigan Air Pollution Control Rule 2 (R 336.202) and AQD-013, EGLE requires any facility in the state that emits a pollutant above the thresholds specified to submit emissions inventory statements annually. These reports contain detailed source type-specific or annual source unit-specific and seasonal actual emissions for all source units in a facility. QA is performed when the data are submitted to the Emissions Inventory System Gateway.

For area source (sometimes referred to as non-point source) emissions, EGLE relied on a variety of state-specific data to estimate emissions based on EPA's procedures and guidance for the 2017 base emissions inventory. Area sources are spread over wide areas with no distinct discharge points or are comprised of a large number of small point sources that are difficult to describe separately and whose emissions are not well characterized (e.g., heating furnaces in individual homes,

architectural surface coating, automobile refueling, dry cleaning, etc.). To develop an accurate and complete area source inventory, EGLE used annual emissions from the 2017 NEI and monthly emissions profiles from 2016v1 platform data. EGLE calculated 2017 emissions estimations by applying conversion factors to the July monthly emission profile to obtain daily emissions. A scaling factor was applied to the area source emissions for the partial county 2015 ozone NAAQS nonattainment areas.

On-road and non-road mobile source emissions were developed by EGLE using annual emissions from the 2017 NEI and monthly emissions profiles from 2016v1 platform data. On-road mobile sources include emissions from motorized vehicles that are normally operated on public roadways. This includes passenger cars, motorcycles, minivans, sport-utility vehicles, light-duty trucks, heavy duty trucks, and buses. Non-road mobile sources include emissions from locomotives, aircraft, marine, off-road vehicles and non-road equipment such as lawn and garden equipment.

For biogenics, which comprise of emissions that come from natural sources, EGLE utilized the annual emissions from the 2017 NEI and monthly emissions profiles from 2016v1 platform data. EGLE applied a conversion factor 2016v1 platform July emissions to obtain ozone season day emissions for the 2017 NEI annual values. For the event category, which is primarily comprised of wildfire emissions, EGLE relied on the 2017 NEI

emissions in entirety.

III. Michigan's Emissions Statement Rule.

Section 182(a)(3)(B) of the CAA requires states to include regulations in the SIP to require sources (source facilities) to submit annual statements characterizing sources of NO_x and VOC emissions within the source facilities and to report actual NO_x and VOC emissions for these sources. EPA approved the majority of EGLE's December 18, 2020, submittal pertaining to the certification of EGLE's stationary annual emissions statement regulation under the 2015 ozone NAAQS in a separate EPA action on July 6, 2022 (87 FR 40097). The remaining request included in EGLE's December 18, 2020, submittal, which was not addressed in EPA's separate action, was the removal of Act 348, Section 14a from the SIP. Act 348, Section 14a was repealed in 1995 and required annual fee payment by certain sources to EGLE as part of the elements for the Michigan Title V Renewable Operating Permit Program.

IV. EPA's Evaluation.

A. Emissions Inventory

EPA reviewed Michigan's December 18, 2020, submittal for consistency with sections 172(c)(3) CAA and 182(a)(1) of the CAA and with EPA's emissions inventory requirements. In particular, EPA reviewed the techniques used by EGLE to derive and quality assure the emissions estimates. EPA has also considered whether Michigan provided the public with the opportunity to review and comment on the development of the emissions estimates, whether

Michigan confirmed that source facility emissions statements are required for the 2015 ozone standard, and whether the state addressed all public comments. EGLE documented the procedures used to estimate the emissions for each of the major source types. The documentation of the emissions estimation procedures is thorough and is adequate for EPA to determine that Michigan followed acceptable procedures to estimate the emissions. Accordingly, EPA concludes that Michigan has developed inventories of NO_x and VOC emissions that are comprehensive and complete.

B. Emissions Statement Rule

As mentioned earlier, EPA approved the portions of EGLE's December 18, 2020, submittal pertaining to the certification of EGLE's stationary annual emissions statement regulation under the 2015 ozone NAAQS in a separate EPA action on July 6, 2022 (87 FR 40097). EGLE requested the removal of Act 348, Section 14a from the SIP which was repealed in 1995 and required annual fee payment by certain sources to EGLE. Act 348, Section 14a does not address the requirements related to attainment and maintenance of the NAAQS under Section 110 of the CAA. EPA has determined that Act 348, Section 14a was erroneously incorporated into the SIP. Instead, Act 348, Section 14a addresses the requirements under title V of the CAA for operating permit programs. EPA fully approved Michigan's title V Renewable Operating Permit Program on November 10, 2003 (68 FR 63735). Since Act 348, Section 14a has been repealed and does

not address the requirements related to attainment and maintenance of the NAAQS under Section 110 of the CAA, EPA is approving EGLE's request to remove Act 348, Section 14a from the Michigan SIP.

V. Michigan's Public Notice and Comment.

Title 40 of the Code of Federal Regulations, part 51, appendix V requires that the State provide sufficient notice and opportunity for public comment and hearing on all SIP submittals. On September 7, 2020, EGLE notified the public of the 30-day period for the opportunity to comment, with respect to the requested SIP revisions pertaining to the emission inventories for the 2015 ozone NAAQS nonattainment areas and updates to the statewide emission statement program. The notification was published on EGLE's Web site at:

https://www.michigan.gov/documents/deq/deq-aqd-sip-pub_notice_Info_610029_7.pdf. EGLE did not receive any public comments or requests for a public hearing by the stated date in the public notice, therefore, EGLE canceled the public hearing.

VI. What Action is EPA Taking?

EPA is approving Michigan's SIP revision submitted on December 18, 2020, to address the ozone-related emissions inventory requirements for the Allegan County, Berrien County, and Muskegon County ozone nonattainment areas for the 2015 ozone NAAQS. The emissions inventories we are approving into the SIP are specified in Tables 1 and 2, above. We are approving the emissions inventories because they contain comprehensive,

accurate, and current inventories of actual emissions for all relevant sources in accordance with CAA sections 172(c)(3) and 182(a), and because Michigan adopted the emissions inventories after providing for reasonable public notice and opportunity for a public hearing. We are also approving the removal of the repealed Act 348, Section 14a from the Michigan SIP, which does not address the requirements related to attainment and maintenance of the NAAQS under Section 110 of the CAA, but rather addresses the requirements under title V of the CAA for operating permit programs. In addition, we are also correcting a typographical error contained in the codification of our own July 6, 2022 (87 FR 40097), action. In that action, on page 40009, we incorrectly identified that we were approving sections 324.5003, 324.5524 and 324.5525 of Act 451 of 1994, as amended, where the correct citations for the approved sections are 324.5503, 324.5524 and 324.5525.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this *Federal Register* publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** without further notice unless we receive relevant adverse written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

VII. Incorporation by Reference.

In this document, EPA is amending regulatory text that includes incorporation by reference. As described in Section III of this preamble and set forth in the amendments to 40 CFR part 52 below, EPA is removing provisions of the EPA-Approved Michigan Regulations from the Michigan State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

VIII. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to

approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the

National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within

which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this *Federal Register*, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 5, 2023.

Debra Shore,
Regional Administrator, Region 5.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.1170:

a. In paragraph (c) amend the table by:

i. Removing the entry for “Act 348 of 1965, as amended” with an EPA approval date of 7/6/2022; and

ii. Revising the entry for “Act 451 of 1994, as amended”.

b. In paragraph (e) amend the table under the sub-heading “Emissions Inventories” by adding a second entry for “2015 8-hour ozone 2017 base year” before the entry for “1997 annual PM_{2.5} 2005 base year”.

The revision and addition read as follows:

§ 52.1170 Identification of plan.

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(c) * * *

EPA--APPROVED MICHIGAN REGULATIONS

Michigan Citation	Title	State effective date	EPA approval date	Comments
* * *	* * *	* * *		
State Statues				
* * *	* * *	* * *		
Act 451 of 1994, as amended	Natural Resources and Environmental Protection Act	3/30/1995	7/6/2022, 87 FR 40097	Only sections 324.5503, 324.5524 and 324.5525.
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(e) * * *

EPA--Approved Michigan Nonregulatory and Quasi-Regulatory Provisions

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA Approval date	Comments
* * *	* * *	*		
Emission Inventories				
* * *	* * *	*		
2015 8-hour ozone 2017 base year	Allegan County (part), Berrien County, and Muskegon County (part)	12/18/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
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[FR Doc. 2023-00369 Filed: 1/17/2023 8:45 am; Publication Date: 1/18/2023]